

Senate Bill No. 696

CHAPTER 693

An act to amend Section 4426 of the Business and Professions Code, and to add Division 111 (commencing with Section 130400) to the Health and Safety Code, relating to health, and making an appropriation therefor.

[Approved by Governor October 10, 2001. Filed
with Secretary of State October 10, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 696, Speier. Pharmacies: prescription benefits: Medicare beneficiaries.

Existing law requires the State Department of Health Services to conduct a study of the adequacy of Medi-Cal pharmacy reimbursement rates.

This bill would require the department to report the results of the study to the Legislature by July 1, 2002.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services, including prescription benefits. Under existing law, the department pays participating pharmacists a discounted price for drugs on a Medi-Cal list of contract drugs, and obtains best price rebates from drug manufacturers.

Existing law, operative until January 1, 2003, requires Medicare beneficiaries, upon showing their Medicare card and prescription, be charged a price not to exceed the Medi-Cal reimbursement rate for prescription medicines, and an amount to cover electronic transmission charges, as a condition of a pharmacy's participation in the Medi-Cal program.

This bill would enact the Golden Bear State Pharmacy Assistance Program, participation in which would be voluntary for Medicare beneficiaries, pharmacies, and drug manufacturers.

The bill would require participating pharmacies to charge prices based on specified components, including rebates to be negotiated with drug manufacturers, and would require the department to pay pharmacies an amount based on these rebates. It would further require rebate amounts paid by the department with respect to a manufacturer's drug to also be paid by the manufacturer to the department.

The bill would require moneys received from drug manufacturers pursuant to the bill to be deposited into the Golden Bear State Pharmacy

Assistance Program Rebate Fund, which would be created by the bill. The fund would be continuously appropriated to the department without regard to fiscal years for implementation of the bill.

This bill would only be implemented upon the receipt of all necessary federal approvals and if the department is able to negotiate a sufficient number of rebate agreements.

The bill would appropriate \$1,000,000 from the General Fund to the department, in the form of a loan, for startup costs for implementation of the bill.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 4426 of the Business and Professions Code is amended to read:

4426. The State Department of Health Services shall conduct a study of the adequacy of Medi-Cal pharmacy reimbursement rates including the cost of providing prescription drugs and services. The department shall report the results of the study to the Legislature by July 1, 2002.

SEC. 2. Division 111 (commencing with Section 130400) is added to the Health and Safety Code, to read:

DIVISION 111. GOLDEN BEAR STATE PHARMACY
ASSISTANCE PROGRAM

130400. (a) This division shall be known, and may be cited as, the Golden Bear State Pharmacy Assistance Program.

(b) As used in this division:

(1) "Department" means the State Department of Health Services.

(2) "Fund" means the Golden Bear State Pharmacy Assistance Program Rebate Fund.

130401. (a) In addition to participating in the program provided for under Article 24 (commencing with Section 4425) of the Business and Professions Code, any Medicare beneficiary may participate in the program provided for under this division.

(b) The department shall conduct an outreach program to inform Medicare beneficiaries of their right to participate in this program. Medicare beneficiaries shall be informed that the amount of the prescription discount shall fluctuate quarterly.

(c) In order to participate in the program provided for under this division, a Medicare beneficiary shall be required to register on a one-time basis. Registration may be made at any pharmacy participating



in this program. In order to register for the program, the Medicare beneficiary shall pay to the pharmacy an administrative fee, which the pharmacy shall retain, in an amount to be established by the department. Upon payment of this fee, the pharmacy shall issue a program registration card, which shall be prepared and provided to the pharmacy by the department, to the Medicare beneficiary.

130402. (a) Any pharmacy may participate in the program provided for under this division. However, this division shall apply only to prescriptions dispensed to noninstitutionalized Medicare beneficiaries.

(b) Any drug manufacturer may participate in the program provided for under this division.

130403. (a) The department shall attempt to negotiate rebate amounts with drug manufacturers for all prescription drugs purchased by Medicare beneficiaries.

(b) If the department determines that it is unable to negotiate rebates with a sufficient number of drug manufacturers, it may cease to continue implementation of this division.

130404. (a) With respect to any prescription drug for which a rebate amount has been negotiated pursuant to Section 130403, upon presentation of a program registration card issued pursuant to Section 130401, a participating pharmacy shall charge Medicare beneficiaries a price for a prescription drug that does not exceed the following computed price:

(1) The Medi-Cal reimbursement rate for the prescription drug, and an amount, as set by the department, to cover electronic transmission charges.

(2) The amount ascertained pursuant to paragraph (1) shall be reduced by a percentage to be determined by the department based on the amount of rebate moneys available in the fund.

(b) The pharmacy shall request, and the department shall provide, through electronic means, the price to be charged pursuant to this section.

(c) This division shall not apply to any prescription that is covered by insurance.

130405. Whenever a pharmacy provides a prescription drug to an individual pursuant to Section 130404, the pharmacy shall bill the department for the amount computed pursuant to paragraph (2) of subdivision (a) of Section 130404 and the department shall pay that amount.

130406. (a) The department shall notify a drug manufacturer of all instances in which it has paid a rebate amount pursuant to Section 130405 with respect to one of the manufacturer's drugs.



(b) A drug manufacturer shall pay the department the amount of any rebate of which the drug manufacturer is notified pursuant to subdivision (a).

130407. (a) The department shall deposit all payments received pursuant to Section 130406 into the Golden Bear State Pharmacy Assistance Program Rebate Fund, which is hereby created in the State Treasury.

(b) Notwithstanding Section 13340 of the Government Code, the fund is hereby continuously appropriated to the department without regard to fiscal years for the purpose of paying rebates pursuant to Section 130405 and for defraying the costs of administering this division.

130408. The department shall develop a program to prevent the occurrence of fraud under this division.

130409. The department may hire any staff needed for the implementation of this division. To implement this program, the department may use the contract with the Medi-Cal fiscal intermediary to administer the program and enroll Medicare beneficiaries, collect rebates, and pay claims, only if services provided under this program are specifically identified and reimbursed in a manner that does not claim federal financial reimbursement. For purposes of this division, use of the Medi-Cal program fiscal intermediary shall be exempt from Part 2 (commencing with Section 10100) of Division 1 of the Public Contract Code. This division shall not be implemented unless and until the director executes a declaration, which shall be retained by the director, stating that all federal approvals necessary for implementation of this division have been received.

SEC. 3. (a) There is hereby appropriated the sum of one million dollars (\$1,000,000) from the General Fund to the State Department of Health Services, for deposit in the Golden Bear State Pharmacy Assistance Program Rebate Fund, in order to provide funds for startup costs for implementation of Division 111 (commencing with Section 130400) of the Health and Safety Code. These funds may be used for, among other things, the development of technical systems, and for negotiating rebates with drug manufacturers.

(b) The money appropriated pursuant to this section shall be in the form of a loan. The department shall be required to repay this loan to the General Fund, except to the extent that any moneys have been expended and the provisions of this act are unable to be implemented.

(c) It is the intent of the Legislature to enact legislation that provides for an additional loan of one million dollars (\$1,000,000), to be made after the department determines that it has negotiated sufficient rebate agreements to implement this act. The moneys from this second loan



would be used for pharmacy rebates until sufficient moneys are paid into the Golden Bear State Pharmacy Assistance Program Rebate Fund.

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